

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

Paula DeDomenico, Individually and on Behalf)	Case No. 07-CA-11696 JLT
of All Others Similarly Situated,)
)
Plaintiff,)
vs.)
)
WEBLOYALTY.COM, INC., a Connecticut)	
Corporation, KRAFT FOODS INC., a Virginia)	
Corporation and VICTOR TH. ENGWALL &)	
CO., INC., a Delaware Corporation d/b/a/)	
GEVALIA,)
)
Defendants.)
)

**MOTION TO TRANSFER TAG-ALONG CASE TO EXISTING MULTIDISTRICT
LITIGATION PROCEEDING**

COMES NOW the Plaintiff Paula DeDomenico ("Plaintiff" or "DeDomenico"), individually and on behalf of all others similarly situated, and moves this Court to transfer this case to the case styled *In Re Webloyalty.com, Inc., Marketing Practices and Sales Practices Litigation*, MDL 07-01820, Lead Case: 06-11620-JLT currently pending before this Court (the "MDL Matter"). In support of this Motion, DeDomenico states as follows:

1. On September 11, 2007, DeDomenico filed a Class Action Complaint ("Complaint") against Defendants Webloyalty.Com, Inc. ("Webloyalty"), Kraft Foods Inc. ("Kraft") and Victor Th.

Engwall & Co., Inc. (“Victor”) (collectively, “Defendants”) as a result of becoming unwillingly subscribed to Webloyalty’s “Reservation Rewards” membership program.

2. DeDomenico’s Complaint alleges that through partnerships it creates with retailers, including Victor and Kraft (commonly referred to by Webloyalty as “e-tailers” or “retail partners”), Webloyalty uniformly sells memberships – by unilaterally “subscribing” consumers without their knowledge or consent – in sham programs such as “Reservation Rewards” for which it charges members a monthly fee, typically between \$7.00 and \$10.00 per month.

3. In the MDL Matter, four Plaintiffs, on behalf of a class of similarly situated individuals, have filed a Consolidated Amended Complaint against Webloyalty and certain other retailer defendants alleging factually identical claims against Webloyalty and those defendants as the claims alleged in DeDomenico’s Complaint. Thus, this case is a tag-along action to the MDL Matter.¹

4. As such, DeDomenico respectfully requests that this Court enter an Order transferring the above-styled litigation into the MDL Matter. Undersigned counsel represents DeDomenico as well as all of the other plaintiffs named in the Consolidated Amended Complaint in the MDL Matter.

5. Rule 7.5 of the Rules of the Panel on Multidistrict Litigation (the “Panel”) provides that potential “tag-along actions” filed in the transferee district require no action on the part of the Panel and requests for assignment of such actions to the Section 1407 transferee judge should be made in accordance with local rules for the assignment of related actions. Further, undersigned counsel has contacted the clerk’s office for the Panel and has been provided with the document

¹ Attached hereto as Exhibit “A” is the Judicial Panel on Multidistrict Litigation’s Order of February 15, 2007 which consolidated the original four actions and transferred them to this Court.

attached as Exhibit "B" indicating that that no transfer is necessary from the Panel to this Court with regards to DeDomenico's Complaint.

6. Gabrielle Wolohojian, Esq., co-counsel for all defendants in the MDL Matter has represented to undersigned counsel that she shall also serve as co-counsel for all defendants in this action. Ms. Wolohojian has accepted service of process for all defendants in this case.

7. The undersigned had conferred with counsel for defendants regarding the relief sought herein. Defendants consent to the transfer and consolidation of this case.

WHEREFORE, DeDomenico respectfully requests that this Court enter an Order transferring the above-styled litigation into the MDL Matter, and granting any other and further relief that this Court deems just and proper.

Dated: November 1, 2007

Respectfully submitted,

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ANDREW J. GARCIA

/s/Andrew J. Garcia

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CERTIFICATE OF SERVICE

I hereby certify that on November 1, 2007, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or *pro se* parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Andrew J. Garcia

Andrew J. Garcia

Mailing Information for a Case 1:06-cv-11696-JLT

Electronic Mail Notice List

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EXHIBIT “A”

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

FEB 15 2007

RELEASED FOR PUBLICATION

DOCKET NO. 1820

FILED
CLERK'S OFFICE

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

**IN RE WEBLOYALTY.COM, INC., MARKETING AND SALES PRACTICES
LITIGATION**

**BEFORE WM. TERRELL HODGES,* CHAIRMAN, D. LOWELL JENSEN,* J.
FREDERICK MOTZ, ROBERT L. MILLER, JR., KATHRYN H. VRATIL, DAVID
R. HANSEN AND ANTHONY J. SCIRICA, JUDGES OF THE PANEL**

TRANSFER ORDER

This litigation consists of the four actions listed on Schedule A and pending in two districts as follows: three actions in the District of Massachusetts and one action in the Central District of California. Plaintiffs in the three Massachusetts actions move the Panel, pursuant to 28 U.S.C. § 1407, for centralization of the litigation in the District of Massachusetts. Common defendant Webloyalty, Inc. (Webloyalty), the web retailer defendants¹ in each action and the California plaintiff² agree that Section 1407 centralization in the District of Massachusetts is appropriate.

On the basis of the papers filed and the hearing held (without oral argument), the Panel finds that the actions in this litigation involve common questions of fact, and that centralization under Section 1407 in the District of Massachusetts will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. All actions are brought as putative nationwide class actions raising common questions of fact and law against defendants allegedly engaged in a scheme to defraud consumers whose personal and/or credit card information was accessed by Webloyalty during online transactions (with the defendant web retailer(s) involved in each action) as part of Webloyalty's Reservation Rewards or other programs.³ Centralization under Section 1407 is necessary in order to eliminate duplicative discovery, prevent inconsistent pretrial rulings, and conserve the resources of the parties, their counsel and the judiciary.

The Panel is persuaded that the District of Massachusetts is an appropriate transferee district for this litigation. Webloyalty is headquartered nearby and it is likely to be the source of a substantial number

* Judges Hodges and Jensen took no part in the decision of this matter.

¹ Fandango, Inc. d/b/a Fandango.com and Priceline.com, Inc. d/b/a Priceline.com are each a defendant in one Massachusetts action. Affiliated web retailer defendants in the other Massachusetts action are Nelson Shane Garrett and Maxim O. Khokhlov d/b/a JustFlowers.com and GiftBasketsASAP.com. Valueclick, Inc. d/b/a 123inkjets.com is the web retailer defendant in the California action.

² Plaintiff initially opposed centralization, but, on January 4, 2007, notified the Panel that he now supports centralization in the Massachusetts forum.

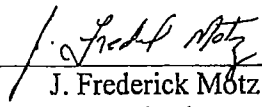
³ Travel Values Plus, Shopper Discounts & Rewards, Buyer Assurance and WalletShield.

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of witnesses and documents subject to discovery. All parties agree that this district is an appropriate forum for conducting Section 1407 proceedings.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. §1407, the action listed on Schedule A and pending in the Central District of California is transferred to the District of Massachusetts and, with the consent of that court, assigned to the Honorable Joseph L. Tauro for coordinated or consolidated pretrial proceedings with the actions pending in that district and listed on Schedule A.

FOR THE PANEL:



J. Frederick Motz
Acting Chairman

SCHEDULE A

MDL-1820 -- In re Webloyalty.com, Inc., Marketing and Sales Practices Litigation

Central District of California

Alcides Melo v. Webloyalty.com, Inc., et al., C.A. No. 2:06-6329

District of Massachusetts

Joe W. Kuefler v. Webloyalty.com, Inc., et al., C.A. No. 1:06-11620

Kim Crouse v. Webloyalty.com, Inc., et al., C.A. No. 1:06-11834

Monica Staaf v. Webloyalty.com, Inc., et al., C.A. No. 1:06-11835

EXHIBIT “B”

Judicial Panel on Multidistrict Litigation - Case Listing Report

Docket: 1820 - INRE: Webloyalty.com, Inc., Marketing and Sales Practices Litigation

Status: Transferred on 02/15/2007

Transferee District: MA Judge: Tauro, Joseph L.

Transferee District Master Docket No.: 1:07-md-01820-JLT

Report is Ordered by District and Case #

Printed on 10/17/2007

Civil Action/ Type	Short Caption	Judge	CTO	Initiation	- Date	Transferee Civil #	Disposition	- Date	Termination	- Date
CALIFORNIA CENTRAL										
2-06-6129	Melo v. Webloyalty.com, Inc., et al.	Elscher		Motion	11/07/2006	2007-10437	Transfer	02/15/2007	Admin. Closed	03/21/2007
MASSACHUSETTS										
1-06-11620	Kudler v. Webloyalty.com, Inc., et al.	Tauro		Motion	11/07/2006		NTN	02/15/2007	Admin. Closed	03/21/2007
1-06-11834	Orouse v. Webloyalty.com, Inc., et al.	Tauro		Motion	11/07/2006		NTN	02/15/2007	Admin. Closed	03/21/2007
1-06-11835	Straf v. Webloyalty.com, Inc., et al.	Tauro		Motion	11/07/2006		NTN	02/15/2007	Admin. Closed	03/21/2007
1-07-11694	DeDominico v. Webloyalty.com, Inc., et al.	Tauro		XYZ Case	09/12/2007		NTN	09/12/2007		

REPORT SUMMARY and FILTERS

Docket: 1820 - Webloyalty.com, Inc., Marketing and SP
For All Cases

There are 5 Cases on this Report.

4 XYZ Actions
0 Suspense Actions
1 Transferred Actions
3 Terminated Actions

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